

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

KAIVEN WESLEY	§	
v.	§	CIVIL ACTION NO. 5:14cv46
BOWIE COUNTY, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON THE MOTIONS TO DISMISS OF DEFENDANTS BOWIE COUNTY,
SOUTHWESTERN CORRECTIONAL, HUMPHREY, BOWENS, LYNCH,
JEFFERSON, JONES, AND WHEAT

The Plaintiff Kaiven Wesley, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered the matter referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The named Defendants are Bowie County, Southwestern Correctional, LLC, Dr. Jagdish Shah, Nurse Bowen, Nurse Humphrey, Captain Jones, Lt. Wheat, Sgt. Jefferson, Regina Lynch, and unknown other persons. Dr. Shah has already been dismissed from the case.

Plaintiff complains about the medical care he received in the Bowie County Jail. Separate motions to dismiss were filed by Bowie County (docket no. 21), Southwestern Correctional (docket no. 33), Nurses Bowen, Humphrey, and Lynch (docket no. 34), and jail officials Jones, Wheat, and Jefferson (docket no. 35). The Magistrate Judge issued separate Reports on each of these motions to dismiss on July 14 and 21, 2015, recommending these be granted. On August 4, 2015, Plaintiff filed a motion for extension of time in which to file objections. This motion was granted until September 3, 2015.

Rather than filing objections, Plaintiff filed another motion for extension of time. This second motion was denied because he failed to show good cause for a further extension. To date, Plaintiff has not filed objections to the Magistrate Judge's Reports despite having more than ample

time in which to do so. Accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

On September 16, 2015, Wesley filed yet another motion for extension of time. He stated one of the Defendants, Nurse Humphrey, has passed away. He also asked for appointment of counsel. Wesley's pleadings failed to state a cognizable claim against Nurse Humphrey and her death does not change this. Nor has Wesley shown the extraordinary circumstances required for appointment of counsel. Ulmer v. Chancellor, 691 F.2d 209, 212 (5th Cir. 1982). His request for extension of time is without merit.

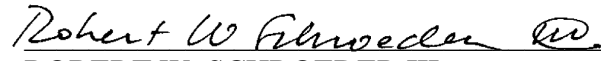
The Court has reviewed the pleadings in this cause and the Reports of the Magistrate Judge. Upon such review, the Court has determined the Reports of the Magistrate Judge are correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED the Reports of the Magistrate Judge (docket no.'s 50, 52, 53, and 54) are ADOPTED as the opinion of the District Court. It is further

ORDERED the Defendants' motions to dismiss (docket no.'s 21, 33, 34, and 35) are GRANTED. These motions encompass the remainder of the named Defendants in the lawsuit. It is therefore

ORDERED the above-styled civil action be and hereby is DISMISSED without prejudice. All motions which may be pending in this action, specifically including but not limited to the Plaintiff's motion for extension of time filed September 16, 2015, are DENIED.

SIGNED this 24th day of September, 2015.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE